

REMARKS

Claims 1-15 remain pending in the present application. Of these, claims 1-15 stand rejected. Claims 1 and 9 are the independent claims. Reconsideration of the application in light of the remarks made herein is respectfully requested.

Discussion of Present Application

Applicant's invention as, as recited by claims 1-15, provides a versatile mechanism for the delivery of advertising material specifically targeted to potential consumers of goods or services, by tailoring the advertisements to a demographic profile of particular consumers. Such a targeting enhances the cost effectiveness of the advertising and minimizes the negative reactions often associated with the promotion of goods or services in which a particular consumer has no interest. This method makes use of a saver card in communication with the program administrator to enhance the method's effectiveness. Responses to targeted advertisements are evidenced by activation of the saver card, which is associated with the recorded profile of a particular consumer. Saver cards can take the form of any one of various types of identification cards (such as keychain cards, credit cards, etc.), and may be distributed to customers and potential customers of the advertising system (at no cost or with a fee) by a business or retailer.

Advantageously, customers holding a saver card who choose to participate in this marketing program must register with the program administrator (via, for example, an internet website). As a result of registration, targeted messages and advertisements are forwarded to the saver card holder. This system may be used for both on-line and off-line purchasing.

Claim Rejections – 35 U.S.C. § 103(a)

Claims 1-15 were rejected under 35 U.S.C §103(a) as being unpatentable over US Patent 7,158,943 to Van der Riet ('943 herein after) in view of US Patent Publication US20020046116 to Hohle et al.

It is respectfully submitted the Examiner has not established a prima facie case for obviousness under 35 U.S.C. 103(a) against claims 1-15 and as such the rejections are traversed.

Applicant respectfully submits that the '943 Van der Riet reference does indeed enjoy the benefit of priority to Provisional Application No. 60/316,268 ("Provisional"), which was filed on September 4, 2001. Applicant also concedes that the filing of the provisional precedes the filing of the instant application, which was on February 6, 2002. However, it is respectfully submitted that the rejection currently of record uses information that appears for the first time in the Van der Riet patent and therefore does not enjoy priority to the Provisional patent. Since the '943 reference was filed on September 4, 2002 after the instant application, as a matter of law, any such new information cannot be applied against the instant application.

For example, the Examiner at page 2 of the Office Action cites the columns 5-6 of '943 against the instant claims, which appear in the "Summary of the Invention" section of this reference. However, a key portion of the text therein does not appear in the Provisional application. Col. 6, lines 37-39, of the '943 reference discloses the collection data regarding online shopping information retrieval and online and offline purchasing history and preferences. However the applicant has not found, nor has the Examiner has shown, where the cited Provisional application discloses the collection of offline purchasing history especially at a retail store.

Addition to the '943 patent of the concept involving collection of offline purchasing history at a retail store, while leaving that concept out of the Provisional patent application indicates that that this concept was not contemplated for the Van der Riet invention at the time the Provisional was filed. Moreover, adding this concept during the filling of the '943 patent clearly indicates that the invention, as described by the Provisional reference, points away from the tracking of offline purchasing histories at a retail store.

In addition the Examiner, at page 2 of the Office Action, indicated that the Provisional application does not teach tracking of offline purchasing as a means to further develop the user profile, and also does not teach a physical card taught as a means of tracking loyalty.

The Examiner cites Hole as teaching the use of identification/loyalty cards for online and offline purchasing in a loyalty system. However, applicant respectfully submits that one of ordinary skill would not try to modify the invention as described in the Provisional application to use a saver card, as required by applicant's present invention, as doing such would be an inordinate burden on one of ordinary skill.

It is a purpose of the Provisional reference to provide a multilingual 'collaborative' interactive marketing for building, inter alia, a platform will facilitate communication and transactions between consumers and suppliers by helping consumers articulate their needs to suppliers, and to (re)search available products/retailers, by helping suppliers customize their product/service offerings, their presentations and advertising messages to reflect individual consumers' needs and by providing portals with ads for their personalized music/news services and compensation for access to their consumers. At the core of the platform is a central 'product/retail

information' database and 'holistic consumer profiles' that are constructed by registering the information consumers retrieve from the central 'product/retail information' database. The 'holistic consumer profiles' are created by capturing consumer purchase behavior/preferences of the largest possible range of product brands, categories and retailers, independent of the portal that the consumer is using to do his shopping. The platform attempts to offer these services while minimizing the costs to retailers and suppliers.

One of ordinary skill would recognize that modifying such a platform to include saver cards that are used at a retail store would be burdensome. Such a system would require each retailer to buy and/or develop saver card reading software, hardware and usage procedures for each of the sales points at a retail store (i.e. each cash register). In addition such a platform would have to be specially developed for each individual retailer as each individual retailer will have radically different systems, software, hardware and procedures which would have to be modified so as to be able to interface with the platform. Each of these retailers will most likely already collect data about their consumers (with each retailer collecting different data), with this data being stored in specially developed database systems all of which will store the data using different formats. All of these different pieces of data would have to be homologized so they can be mined to produce profiles about customers that frequent these retail stores. The costs of such development (including financial, time, retraining, debugging) would be born, directly or indirectly, by the individual retailers and suppliers that opt in to use this system.

As such, it is respectfully submitted that, the combination of '943 and Hohle fails to disclose or suggest a method of distributing advertisements where at least one retailer having a

retailer store that provides a saver card to potential respondents and providing a transaction to one targeted potential respondent where the transaction is carried out at the retailer store as required by applicant's claim 1.

It is also respectfully submitted that, the combined teachings of '943 and Hohle fail to disclose or suggest a system for providing one retailer (having a retailer store) an advertising program to at least one potential respondent, where a saver card is configured to be associated with a potential respondent and activation of the saver card is carried out at the retailer store as required by applicant's independent claim and 9.

In light of the foregoing, it is respectfully submitted that, the combination of '943 with Hohle as applied by the Examiner fails teach or suggest each and every element of applicant's independent claims 1 and 9. Accordingly, the applied references do not render claim 1 prima facie obvious, because they do not disclose or suggest each and every claim limitation thereof.

Claims 2-15 depend directly or indirectly from claims 1 and 9, necessarily including the elements and limitations thereof. These dependent claims recite additional features, which are neither disclosed, nor fairly suggested, by the applied reference and are therefore also in condition for allowance.

Accordingly, reconsideration of the rejection of claims 1-15 under 35 USC § 103(a) as being unpatentable over the combination of '943 and Hohle is respectfully requested.

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CONCLUSION

In view of the foregoing remarks, it is submitted that claims 1-15 patentably define over the art applied. Accordingly, reconsideration of the Final Rejection, entry of this amendment and allowance of claims 1-15 are earnestly solicited.

Respectfully submitted,

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By _____

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